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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 THOMAS W. SEITER,

12 Plaintiff,

13 v.

14 YOKOHAMA TIRE CORPORATION,

15 Defendant.

Case No. C08-5578 FDB

ORDER GRANTING MOTION FOR
PROTECTIVE ORDER

16 This matter comes before the Court on Defendant Yokohama Tire Corporation's motion for
17 protective order. The Court, having reviewed the pleadings, is fully informed and hereby grants the
18 motion for the reasons stated herein.

19 **Introduction and Background**

20 This is an employment-based lawsuit, brought by Plaintiff, Thomas W. Seiter against
21 Defendant Yokohama Tire Corporation for wrongful termination, disability discrimination and
22 unpaid wages. Yokohama seeks the entry of a protective order prohibiting third-party disclosure of
23 certain Yokohama confidential commercial information. Specifically, Seiter, who Yokohama has
24 recently confirmed is currently employed by a competitor, seeks the production of all documents
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1 related to warranty or technical issues for two of Yokohama's commercial tire products. Yokohama
2 asserts that its warranty policies and other information relating to their sales and development of
3 tires are highly confidential and disclosure of this information to Yokohama's competitors would
4 give them an unfair advantage.

5 Plaintiff Seiter counters that to deny him access to this information will severely prejudice
6 his ability to prove his case and render further discovery and trial cumbersome and inefficient.
7 Plaintiff further claims that Defendant seeks to hide important public health and safety information.

8 In response to Plaintiff's main concern, Yokohama indicates that it does not seek to
9 completely prohibit the discovery of these documents, but simply to make their production subject
10 to a confidentiality order and require Plaintiff to give notice to Yokohama if he intends to file these
11 documents with the Court so that Yokohama may move the Court pursuant to Local Rule 5(g) to
12 have these records sealed.

13 **Rule 26(c) Protective Orders**

14 It is well established that the "fruits of pre-trial discovery are, in the absence of a court order
15 to the contrary, presumptively public. Fed. R. Civ. P. 26(c)(1) provides that a court "may, for good
16 cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or
17 undue burden or expense, including one or more of the following: ... requiring that a trade secret or
18 other confidential research, development, or commercial information not be revealed or be revealed
19 only in a designated way..." Fed. R. Civ. P. 26(c)(1)(G). Rule 26(c) authorizes the court to override
20 the presumptively public disclosure where good cause is shown. San Jose Mercury News, Inc. v.
21 U.S. Dist. Ct., 187 F.3d 1096, 1103 (9th Cir. 1999). Rule 26(c)(1)(G) provides for a protective order
22 upon a showing "that a trade secret or other confidential research, development, or commercial
23 information not be revealed or be revealed only in a designated way."

24 To obtain a protective order, the party resisting discovery or seeking limitations must, under
25 Rule 26(c), show good cause for its issuance. Specifically, the moving party must make a clear

1 showing of a particular and specific need for the order. Blankenship v. Hearst Corp., 519 F.2d 418,
2 429 (9th Cir.1975). In the case of trade secrets, the moving party must show (a) that the
3 information is a “trade secret or other confidential research, development, or commercial
4 information,” under Rule 26(c)(7) and (b) that its disclosure would be harmful to the party's interest
5 in the property. The decision to issue a protective order rests within the sound discretion of the trial
6 court. Wang v. Hsu, 919 F.2d 130, 130 (10th Cir. 1990).

7 Where trade secrets or other confidential commercial information is involved, the court will
8 balance the risk of disclosure to competitors against the risk that a protective order will impair
9 prosecution or defense of the claims. Brown Bag Software v. Symantec Corp., 960 F.2d 1465, 1470
10 (9th Cir. 1992). The court may order that the trade secret or commercial information not be revealed
11 or be revealed only in a designated way. Fed. R. Civ. P. 26(1)(G). Courts commonly issue
12 protective orders limiting access to sensitive information to counsel and their experts. Nutratch,
13 Inc. v. Syntech (SSPF) Intern., Inc., 242 F.R.D. 552, 555 (C.D. Cal. 2007). These protective orders
14 represent judicial efforts to strike a proper balance between the philosophy of full disclosure of
15 relevant information and the need for reasonable protection against harmful side effects, such as the
16 risk that disclosure will result in competitive harm. Id.

17 Defendant has demonstrated to the satisfaction of this Court that good cause exists for the
18 issuance of the proposed protective order. Defendant’s fear of competitive harm from disclosure of
19 its trade secrets relating to research and development, pricing policies, and other confidential
20 business practices, to Plaintiff’s new employer is legitimate. Plaintiff has not shown how this
21 limited protective order confining the use of confidential information to the current litigation
22 hinders his ability to prove his case. Should Plaintiff believe after disclosure that this information is
23 not properly subject to the protective order, he may challenge the designation.

24 **Conclusion**

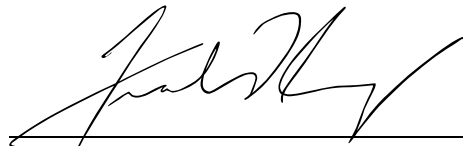
25 For the above stated reasons the Court grants Defendant’s motion for a protective order.

1 ACCORDINGLY;

2 IT IS ORDERED:

3 Defendant's Motion for Protective Order [Dkt. # 19] is **GRANTED**.

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5 DATED this 10th day of August, 2009.

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10 FRANKLIN D. BURGESS
11 UNITED STATES DISTRICT JUDGE
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